

Exhibit 4

HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

- - - - - +

SONY MUSIC ENTERTAINMENT,		
et al,		
Plaintiffs,		Case Number:
vs.		1:18-cv-00950-LO-JFA
COX COMMUNICATIONS, INC.		
AND COXCOM, LLC,		
Defendants.		

- - - - - +

HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER
Rule 30(b)(6)

Videotaped Deposition of
THE RECORDING INDUSTRY ASSOCIATION OF AMERICA
by and through its designated representative
STEVEN MARKS, ESQ.
in Washington, D.C.
on Monday, June 10, 2019
10:47 a.m.

Job No. 3404443
Reported by: Laurie Donovan, RPR, CRR, CLR

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1 HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

2 Rule 30(b)(6)

3 Videotaped Deposition of

4 THE RECORDING INDUSTRY ASSOCIATION OF AMERICA

5 by and through its designated representative

6 STEVEN MARKS, ESQ.

7
8 Held at the offices of:

9 Winston & Strawn, LLP

10 1700 K Street, NW

11 Washington, D.C. 20006

12 (202) 282-5000

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19 Taken pursuant to notice, before

20 Laurie Donovan, Registered Professional

21 Reporter, Certified Realtime Reporter, and

22 notary public for the District of Columbia.

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1 A P P E A R A N C E S

2 ON BEHALF OF THE PLAINTIFFS:

3 Oppenheim & Zebrak, LLP

4 4530 Wisconsin Avenue, NW

5 Suite 503

6 Washington, D.C. 20016

7 (202) 480-2999

8 By: Jeffrey M. Gould, Esq.

9 jeff@oandzlaw.com

10 ON BEHALF OF THE DEFENDANTS:

11 Winston & Strawn, LLP

12 200 Park Avenue

13 New York, New York 10166

14 (212) 294-6729

15 By: Michael S. Elkin, Esq.

16 melkin@winston.com

17 Diana Hughes Leiden, Esq.

18 dhleiden@winston.com

19 ALSO PRESENT:

20 Dan Reidy, Videographer

21 Kenneth L. Doroshow, in-house for RIAA

22

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EXAMINATION INDEX

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EXAMINATION BY MR. ELKIN 10

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EXAMINATION BY MR. GOULD 230

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E X H I B I T S

11

EXHIBIT DESCRIPTION PAGE

12

Exhibit 1 First Amended Complaint and
Jury Demand 37

13

14

Exhibit 2 Email from antipiracy2@RIAA to
saves@outpost.dtecnet.com, dated
January 24, 2012 58

16

17

Exhibit 3 Email chain, Bates number
RIAA-00127815 75

18

19

Exhibit 4 Email chain, Bates number
COX-SONY-00510850 87

20

21

Exhibit 5 Email chain, Bates number
COX-SONY-00519017 93

22

23

Exhibit 6 Email chain, Bates number
COX-SONY-00519137 113

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1	(Exhibits continued)		
2	EXHIBIT	DESCRIPTION	PAGE
3	Exhibit 7	PowerPoint presentation entitled	
4		"RIAA Education," Bates number	
5		COX-SONY-00519178	114
6	Exhibit 8	Memorandum of Understanding,	
7		Bates PLAINTIFFS-00286200	129
8	Exhibit 9	Implementation Agreement between	
9		RIAA and AT&T, Bates number	
10		PLAINTIFFS-00286282	190
11	Exhibit 10	Stroz Friedberg Initial AT&T	
12		Report, Bates number	
13		STROZMARKMONITOR-0000224	194
14	Exhibit 11	Implementation Agreement between	
15		RIAA and Comcast, Bates number	
16		PLAINTIFFS-00286311	197
17	Exhibit 12	Stroz Friedberg Initial Comcast	
18		Report, Bates number	
19		STROZMARKMONITOR-0000175	199
20	Exhibit 13	Implementation Agreement between	
21		RIAA and Cablevision, Bates number	
22		PLAINTIFFS-00286344	205

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1	(Exhibits continued)		
2	EXHIBIT	DESCRIPTION	PAGE
3	Exhibit 14	Stroz Friedberg Initial	
4		Cablevision Report, Bates number	
5		STROZMARKMONITOR-0000287	207
6	Exhibit 15	Implementation Agreement between	
7		RIAA and Time Warner Cable, Bates	
8		PLAINTIFFS-00286374	209
9	Exhibit 16	Stroz Friedberg Initial	
10		Time Warner Cable Report, Bates	
11		STROZMARKMONITOR-0000200	212
12	Exhibit 17	Implementation Agreement between	
13		RIAA and Verizon, Bates number	
14		PLAINTIFFS-00286403	214
15	Exhibit 18	Stroz Friedberg Initial Verizon	
16		Report, Bates number	
17		STROZMARKMONITOR-0000264	216
18	Exhibit 19	Agreement between DtecNet and	
19		RIAA for provision of services	
20		related to monitoring and	
21		identification of infringement on	
22		peer-to-peer and other online	
23		sites and platforms, Bates	
24		RIAA-00000003	219
25			

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1 (Exhibits continued)

2	EXHIBIT	DESCRIPTION	PAGE
3	Exhibit 20	Statement of Work detailing work	
4		to be done by DtecNet for RIAA,	
5		Bates number RIAA-00000017 . . .	221
6	Exhibit 21	Statement of Work detailing work	
7		to be done by MarkMonitor for	
8		RIAA, Bates RIAA-00000030 . . .	222
9	Exhibit 22	Statement of Work detailing work	
10		to be done by MarkMonitor for	
11		RIAA, Bates RIAA-00000045 . . .	223
12	Exhibit 23	Statement of Work detailing work	
13		to be done by DtecNet for RIAA,	
14		Bates number MM000120	227

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P R O C E E D I N G S

THE VIDEOGRAPHER: Good morning.

We are going on the record at 10:47 a.m. on Monday, June 10, 2019. Please note that the microphones are sensitive and may pick up whispering, private conversations, and cellular interference. Please turn off all cell phones or place them away from the microphones, as they can interfere with the deposition audio. Audio and video recording will continue to take place unless all parties agree to go off the record.

This is media unit 1 of the video-recorded deposition of Steven Marks taken by counsel for the defendant in the matter of SonyMusic Entertainment, et al, versus Cox Communications, Inc. and Coxcom, LLC. This case is filed in the United States District Court for the Eastern District of Virginia, case number 1:18-CV-00950-LO-JFA.

This deposition is being held at the law offices of Winston & Strawn LLP located at 1700 K Street, Northwest, Washington, D.C., 20006.

My name is Dan Reidy from the firm

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1 Veritext Legal Solutions, and I'm the
2 videographer. The court reporter is Laurie
3 Donovan from the firm Veritext Legal
4 Solutions. I'm not authorized to administer
5 an oath, I'm not related to any party in this
6 action, nor am I financially interested in
7 the outcome.

8 Counsel and all present in the room
9 and everyone attending remotely will now
10 state their appearances and affiliations for
11 the record. If there are any objections to
12 proceeding, please state them at the time of
13 your appearance, beginning with the noticing
14 attorney.

15 MR. ELKIN: Good morning. Michael
16 Elkin and Diana Leiden from Winston & Strawn,
17 I believe Tom Lane may be either on the line
18 or via LiveNote. We represent Cox.

19 MR. GOULD: I'm jeff Gould from
20 Oppenheim & Zebrak on behalf of the RIAA and
21 the witness, Steve Marks, and with me is Ken
22 Doroshow from the RIAA.

23 THE VIDEOGRAPHER: Would the court
24 reporter please swear in the witness.

25 (Witness duly sworn.)

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* * * * *

STEVEN MARKS, ESQ.,

having been first duly sworn, testified
upon his oath as follows:

EXAMINATION BY COUNSEL FOR DEFENDANT COX

BY MR. ELKIN:

Q Good morning, Mr. Marks.

A Good morning.

Q Thank you for appearing.

A A pleasure.

Q Who is Victoria Sheckler?

A She is deputy general counsel at the
Recording Industry Association of America.

Q And how long has she been working at the
Recording Industry Association of America? I'm
going to refer to that as "RIAA" if that's okay
with you.

A Sure.

She has been there a little more than a
decade, I think.

Q And do you know what her duties and
responsibilities are?

A Yes.

Q What are they?

A She handles a variety of legal issues in

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1 to the, to the extent that there were discussions,
2 which I wasn't involved in and don't know, so I
3 can't, you know, detail, wouldn't want to
4 speculate about it.

5 Q If they were privileged, do you have
6 reason to believe it would be on a privilege log?

7 MR. GOULD: Object to this line of
8 questioning as outside the scope and an
9 incomplete hypothetical.

10 If the question is did RIAA
11 communicate with the record companies about
12 that, you could answer that question if you
13 know. If the answer is what was the nature
14 of those types of communications, and it
15 implicates a privilege issue, then I caution
16 you to be careful in not disclosing that.

17 THE WITNESS: So I, I wasn't party
18 to the discussions. Mr. Buckles would have
19 handled that, you know, with the companies,
20 if he had them. I just wasn't involved in
21 them, so I can't say specifically.

22 (Exhibit 23 was marked for
23 identification.)

24 BY MR. ELKIN:

25 Q Mr. Marks, the court reporter has handed

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1 to you a document marked for identification as
2 Marks Exhibit 23.

3 Is this a document between the RIAA --
4 an agreement between RIAA and DtecNet, dated
5 December 20, 2011 [sic]?

6 A February 15, 2012.

7 Q 2012. Apologies. Let me, let me start
8 over.

9 Is this an agreement between RIAA and
10 DtecNet dated February 15, 2012?

11 A Yes.

12 Q And I call to your attention page 5 of
13 the exhibit.

14 Is that Mr. Buckles' signature?

15 A Yes.

16 Q And was he authorized to sign this on
17 behalf of RIAA?

18 A Yes, he would have been.

19 Q Are you -- you can put that down unless
20 you want to refer to it. I'm happy to take more
21 testimony on it if you want to provide it.

22 Are you aware of the process by which
23 the RIAA searched for and produced documents in
24 response to these requests, the requests that we
25 propounded?

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1 A Yes, generally.

2 Q What was the process, excluding any
3 attorney/client privileged content?

4 A There was pulled email logs and
5 documents associated with the emails from a number
6 of different people at RIAA that were involved in
7 the issues that we're discussing.

8 Q Did you search by custodian?

9 A Yes, the individual email logs that
10 were . . .

11 Q Do you remember the search terms?

12 A I don't remember them.

13 Q Who, who would know them?

14 A Our counsel would know them.

15 Q Do you know how much time was spent by
16 the RIAA searching for and collecting the
17 documents responsive to the document request?

18 A I don't know exactly.

19 Q Are you aware of the RIAA's document
20 retention policy for employee emails?

21 A Yes.

22 Q What is it?

23 A There should be everything there.

24 MR. ELKIN: Okay. Let's go off the
25 record.